

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6782

BILL NUMBER: SB 280

NOTE PREPARED: Dec 28, 2012

BILL AMENDED:

SUBJECT: Defense of Legislative Lawsuits.

FIRST AUTHOR: Sen. Delph

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: This bill provides that, if: (1) the constitutionality or enforcement of a state statute is being challenged; and (2) a member of the General Assembly who is the first author of a bill finds that the statute is not being adequately defended; the first author has standing to intervene as a party in the action. It permits the second author to intervene if the first author is no longer a member of the General Assembly, and permits the Speaker of the House of Representatives or the President Pro Tempore of the Senate to appoint a member to substitute for the member who intervened if that person ceases to be a member of the General Assembly. The bill also provides that a member with standing to intervene may employ an attorney to represent the member, requires the member to seek an attorney who will represent the member on a pro bono basis, and specifies that if the member is unable to obtain a qualified attorney to represent the member on a pro bono basis, the Attorney General shall pay the reasonable costs and fees related to the representation.

The bill requires the Attorney General to forward a notice relating to a challenge of the constitutionality of a statute to the Legislative Council and first author of the bill enacting or amending the statute.

Effective Date: July 1, 2013.

Explanation of State Expenditures: *Attorney General:* This bill requires the Attorney General to pay the reasonable costs and fees related to representation if: (1) a member of the General Assembly has standing to intervene as a party in the action if they find that the statute is not being adequately defended against constitutionality challenges; and (2) the member is unable to find representation on a pro bono basis. The extent that members of the General Assembly may seek representation under the bill and the potential expenses relating to such representation are unknown.

The provision requiring the Attorney General to forward a notice relating to a challenge of the constitutionality of a statute to the Legislative Council and the first author of the bill enacting or amending the statute should have minimal impact on the Attorney General's office since notification must be in electronic form. Increased workload for the Attorney General's office will depend upon the extent they must notify the Legislative Council about challenges of the constitutionality of statutes. The Attorney General's office does not have information on the number of cases that this bill could impact.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Attorney General.

Local Agencies Affected:

Information Sources: David Miller, Attorney General's Office, 317-234-2219.

Fiscal Analyst: Jessica Harmon, 317-232-9854.